

# **Job Creation Committee**

## **Minutes from the April 16, 2015 Meeting**

### **Call to Order & Establishment of Quorum**

The Job Creation Committee (JCC) meeting was called to order by Chairman Nick Rhoad on Thursday, April 16, 2015 in Conference Room WO64 at 9:12 AM.

- David Miller (arrived at 10:50 AM )
- Allen Pope (left at 10:50 AM)
- Ryan Miller – SBA/OMB representative
- Barbara Quandt
- Richard Wilson
- Nicholas Rhoad
- Timothy Reed

IPLA Staff Members Present

- Nick Goodwin

### **Adoption of Agenda & Review of March Minutes**

Col Wilson proposed a motion to adopt the current agenda and the minutes from the March meeting. Mr. Reed seconded. With no opposition, the motion to adopt the agenda and March minutes was passed by the committee.

### **Presentation from the Private Investigator & Security Guard Licensing Board**

Randy Sidwell, Captain of Pendleton Police Department & Board Member of the Private Investigator & Security Guard Licensing Board, presented to the committee. He explained that he has nineteen years of experience and has served as a PI at one point in his career. He believes that as a member of the police force, he has only encountered PIs or security guards maybe less than ten times, and usually on suspicious behavior (if the PIs/security guards are monitoring a private residence or something of that nature). He explained that for a time, the Pendleton PD asked that PIs or security guards alert law enforcement of their intentions in an area before proceeding, but that was hard to enforce. He explained that while the police take care of the criminal side of things, there are bad apples in every profession. He thinks that it's important for the average person to be able to hire a PI, since the police wouldn't handle the kind of private matters that a PI can investigate. He recalls one time when he was called to a scene where a security guard was able to gather information that allowed the police to make an arrest based on that information. Overall, he has had positive experiences with PIs and private security guards. He also explained that reserve police officers for the Pendleton PD have to complete a 40 hour intensive course that is mandated by the state. In his opinion, he believes that every person conducting PI or security guard work complete a similar mandated training that is required of these reserve police officers.

Col. Wilson asked about the different "levels" of security guards in Indiana. For example, there are watchmen who are uniformed but don't carry lethal weapons such as in shopping malls, other security professionals who carry body armor and lethal weapons, and mall security guards who patrol malls or businesses during business hours. Col. Wilson asked that since the state only licenses the firm owner and not all individual employees in the firm, which levels of security guards does Mr. Sidwell think need that mandated training? Should the committee consider some kind of special certification for these individual employees who aren't licensed by the state?

Mr. Sidwell responded that again, he believes that the kind of mandated 40-hour course required for reserve police officers would be extremely beneficial for security guards not licensed by the state in an effort to protect public safety. He believes that the mandated training could be more or less intense depending on the level of the security guard.

Col. Wilson raised concerns about the security guards who carry firearms. He asked if it would be wise to require some kind of certification for individual employees of a security firm who will carry firearms that will allow them to use/carry those firearms in a security capacity.

Mr. Sidwell agreed that it would be beneficial in his opinion. He's not sure what would be the best organization to handle that certification, whether ISP or NRA, professional organizations, etc.

Mr. Rhoad is concerned about the public being able to distinguish between state police, local police, and security guards. He expressed concern that sometimes it is hard to tell the difference.

Mr. Sidwell responded that he has seen two types of security guards in his experience. Either people who failed to enter into law enforcement due to their background or other qualifications, or people who understand their career and responsibilities as a security guard officer and don't overstep their boundaries. He explained that in his experience, most law enforcement uniforms do not include anything on the collars but brass pins. He has seen a lot of security guard uniforms with stripes or other colors on the collar. Mr. Sidwell believes that further regulation on uniform requirements for security guards or PIs might be excessive, since he has not encountered any problems with it.

### **Presentation from the Indiana Cemetery Association**

Casey Miller, Executive Director of the Indiana Cemetery Association, presented to the committee. His organization represents 125 members whose businesses cover 67% of burials in Indiana. The organization's members mostly manage Catholic cemeteries. He explained that cemetery owners weren't represented on the committee until 1990 or so. He believes that cemetery owners are the "teeth" behind the preneed/financial aspect of the funeral business and that both the board and the Attorney General's office work hard to protect the industry and weed out any unscrupulous practitioners. He explained a situation in 2008 where someone purchased a widespread family funeral business with a loan, and once this person owned the business, they raided the trust funds to pay back that loan. This person's criminal activity was swiftly discovered by the AG's office and prosecuted appropriately in his opinion. The funerals/cemeteries belonging to the business were placed by an attorney into the hands of other responsible owners until the original owner was in jail. He explained that the citizens who placed their money in those trust/preneed funds were in jeopardy during that time, and that is why he believes that the board plays a very important role in protecting citizens in Indiana. There is also a cemetery association liaison on the board who can handle minor complaints before they reach the AG's office.

Mr. Reed asked if Mr. Miller was familiar with another incident that occurred in Hobart, IN where another business was raiding preneed funds. Mr. Pope confirmed that the investigation is ongoing in that case. Mr. Miller responded that he was not aware of it. He further explained the importance of the consumer protection preneed fund that protects consumers from funeral business/cemetery fraud.

Mr. Rhoad asked Mr. Miller if all 50 states regulate and license cemeteries and funeral businesses. Mr. Miller is not sure, but as far as he knows, all neighboring states regulate the industry. Mr. Rhoad asked about the alternatives offered in states without regulations. Mr. Miller explained that in those states, the industry relies strictly on the respectability/responsibility of the funeral/cemetery business owners. He believes that the current system in Indiana is working very well and doesn't recommend any changes.

Mr. Pope asked Mr. Miller about the cost of a certificate of authority for cemetery owners. Mr. Miller explained that it is approximately \$30. Mr. Pope asked why the state doesn't just handle all initial preneed funds, instead of trusting funeral business owners to do it themselves and then having to prosecute them when they don't. Mr. Miller believes that initially it was done to avoid burdening the state.

### **Presentation from the Indiana Auctioneer Commission**

Jeanette Langford, Board Director for the Indiana Auctioneer Commission, presented to the committee. She explained that the Indiana Auctioneer Commission currently handles 2,932 active licenses. She explained the license types of an auctioneer and auction company (395 active licenses for companies). There are 17 active pre-licensing course providers for this license, which seems a bit excessive to her, but she hasn't heard any complaints about any of them. She further explained board functions and how it consists of six members appointed by the Governor with no more than four members from the same political party and five members must be auctioneers with no less than 5 years of experience in the industry. She added that one member of the board is a consumer member. She also explained the role of the Commission. She believes that the fees for these licenses are very reasonable, and her staff have not heard many complaints. This Commission provides the examination for this license, and she would like to get that changed to an independent provider if possible.

Col. Wilson asked Ms. Langford how the Commission can really determine the costs to the State in administering each license overseen by the IPLA and the appropriate boards/commissions when each group (within IPLA) can cover five or six different professions at the same time.

Mr. Rhoad explained that since IPLA is an umbrella agency, their appropriations from the General Fund doesn't differentiate funding between the Indiana Auctioneer Commission and the Indiana Real Estate Commission.

Col. Wilson expressed his desire to find out the costs to the State for each of these licenses. Specifically, he would like to determine the effects if the Job Creation Committee combined salaries for staff to find out what percentage of time is spent by the boards/commissions on each of their professions.

### **Presentation from the Indiana Attorney General's Office re: Auctioneers**

Terry Tolliver, Deputy Attorney General, presented to the Job Creation Committee. He explained that most complaints about this industry are from consumers and are typically financial or billing disputes. The AG's office can investigate if the auctioneers are following industry code standards such as dispersing payments within 30 days. Mr. Tolliver further explained that the difference between unprofessional conduct and professional incompetence in this profession are usually determined by who is making the complaint. Most professional incompetence complaints are made by other industry professionals. Unprofessional conduct complaints are mostly from consumers. Mr. Tolliver added that 135 litigation files were opened and closed over the past seven years. Most cases related to things like failure to set up trust funds, failure to make payments within 30 days, etc.

Mr. Rhoad asked Mr. Tolliver if all states license auctioneers. Mr. Tolliver responded that 27 states license this industry. Mr. Rhoad asked Mr. Tolliver about the most severe violations he experiences for this industry. Mr. Tolliver responded that the biggest violation is usually theft.

### **Report from the Indiana Auctioneers Association**

Seth Seaton, IAA Treasurer, and Kathy Baber, IAA Executive Director, presented to the committee. Mr. Seaton explained how the auction industry has rapidly changed over the years. He defined how the state defines an auction. He explained that auctions are used to liquidate a variety of assets in a fair and commercially reasonable manner. The association's role is to provide members with resources, tools, and education to conduct business in an ethical and professional manner. The IAA also stands as the legislative voice for auction professionals in Indiana. Mr. Seaton explained that the association believes that auctioneers are the most efficient way to sell distressed or highly desirable assets. Auctioneers are the recyclers of business/real estate/personal assets in the economy. Auctioneers are also the most efficient asset converters in the economy. The association supports a more responsible education system for the industry. Mr. Seaton wants to urge state government to get opinions from professionals from the auction industry when formulating government regulatory policies for the industry.

He also explained the economic impact and average wage in this profession. As there are many facets to this industry, it is hard for the association to pin down an average wage. Mr. Seaton further discussed the benefits of licensure and how the association believes that it protects consumers from the potential harm of mishandling funds or fraud. State licensing has also been helpful with reciprocity for licensure in other states. Mr. Seaton explained that licensees are required to use contracts to protect the consumer, and they are required to have a trust/escrow account to ensure all monies involved are accounted for. Licensees have to meet minimum continuing education requirements and provide consumers with clearly defined courses of action for filing complaints and proper recourse.

In regards to any changes to the license regulations, the association believes that auction companies should have the same continuing education requirements as the auctioneer licenses. The IAA wants to see the state regulating online auctions as there is currently none. The IAA believes that online auctions are no different than in-person auctions; the Internet just provides a different medium. The association also supports IPLA and the Indiana Auctioneer Commission. They do not want to see the Commission be combined with any other regulated profession due to complexity of the industry. The association would be willing to assist IPLA in administrative duties like administering the state exam and reviewing CE and education auditing. They believe that Indiana has the lowest auctioneer license fee in any other state that requires licensure.

Ms. Quandt asked about how many businesses and individuals are members of the IAA. Mr. Seaton answered that the IAA has the biggest membership of any other licensed state with 20% of licensed members in the State as members.

Col. Wilson asked for Mr. Seaton to explain the difference between a consignment company and auction company. Mr. Seaton answered that licensing-wise, there is no difference—the only difference is the format of how the goods are sold.

Mr. Pope asked for Mr. Seaton to clarify his status as a dual agent and why he would allow clients to purchase something at double or triple retail cost. Mr. Seaton explained that it's just the economic market of auctions. He elaborated that some sales are much lower than retail cost

and some are much more; it's just the nature of the business. He explained that buyer's remorse does occur, but most people pay on time and follow through with the deal regardless.

Ms. Quandt asked how much it costs to be a member of the association. Mr. Seaton explained that it is \$125 annually. They don't have a membership for businesses—just individuals. He explained an affiliate membership is a little bit cheaper, but affiliates are nonvoting members.

Col. Wilson asked that if the association was given the resources and the authority to act as an agency of the state to regulate these licenses, would they be willing to cooperate. Ms. Kathy Baber explained that she would like to see their association provide pre-licensing exams and continuing education for licensure.

Mr. Rhoad asked about the handful of states who don't offer licenses for this profession and how those professionals in those states obtain reciprocity if they aren't licensed by their home state. Mr. Seaton explained that in some of the states without state licensure, individual counties offer licensure. Ms. Baber explained that most states without licensure have different demographics with lower populations. The west coast states also don't offer licenses, but they don't have a large auction industry.

Col. Wilson asked if there is a way to offer self-certification for this profession instead of state licensure so that consumers could choose between using certified professionals and uncertified. Ms. Baber explained that Michigan did that and now they have no way to know the size of the auction industry since there is no mandatory registry system. Col. Wilson asked if the state would be the best handler of self-certification. Ms. Baber responded that yes, but the association would need more resources to help with the certification. Mr. Miller added that state-regulated licensure offers much more consumer protection than voluntary self-certification through professional associations. The state can take much swifter action to protect consumers, rather than wait around for personal law suits to take effect. Col. Wilson asked if there is a compelling public interest in the state licensing this profession.

[Nothing to add beyond what had already been said supporting the reasons for licensure.]

Mr. Rhoad asked about adding some professional members to the commissions for real estate or appraising. Ms. Baber mentioned that some real estate professionals see auctioneers as competition. She explained further that since her association hasn't discussed it, she doesn't have an answer about that yet. The IAA is not necessarily opposed to it, but they would want to have a conversation within the association before publically stating one way or the other.

### **Committee Discussion**

Nick Goodwin explained that board recommendations are due by July 1<sup>st</sup>. The Indiana Board of Accountancy recommendation has already submitted. He is proposing that the committee takes a break in May and meets again in June to discuss and finalize recommendations to be submitted to the Legislature.

Col. Wilson asked if the committee could have a study day where the committee could meet to discuss this before formulating recommendations. Mr. Miller explained what a serial meeting would be, as opposed to a public meeting, and it is a meeting in which there is a number less than quorum. The purpose of the meeting would need to be just to gather information and not make decisions. Col. Wilson asked if the committee could meet in May or have two meetings in June. Ms. Quandt stressed that she believes all meetings should be public. Mr. Goodwin will send some potential dates for June meetings to the committee. Members of the committee

agreed that they would like to meet on June 2<sup>nd</sup> & 17<sup>th</sup>. Mr. Rhoad mentioned that he would like some kind of cost analysis from OMB, and he should be able to get it once session is over.

Col. Wilson really wants to know if anyone has ever looked comprehensively over the decades to see how big the footprint of public benefit and economic impact of licensing all of these professions. Mr. Goodwin responded that PLA generates a net positive for the State in terms of the revenue brought in from licensing fees in comparison to the General Fund appropriation given to the agency for operating costs (salaries, equipment, technology fees, etc.). The net gain to the state in terms of revenue is about \$10M per year.

Mr. Goodwin also offered a legislative update to the committee. House Bill 1303 passed the Senate. This bill creates a self-certification registry allowing certain industries to voluntarily apply to IPLA/the Job Creation Committee for inclusion. This committee would receive applications and chose up to five different, non-healthcare industries for this new pilot program. These industries could only be professions that are currently not regulated (through state licensure) but want to be included on the registry. The reasoning for inclusion on the voluntary registry is for the state to have an information tool for the industry showing practitioners that have more education and comprehension in the industry, which in term is a consumer protection tool as consumers would be less likely to hire someone without credentialing, and for practitioners to have greater marketplace distinction from their counterparts who haven't taken additional courses or received degrees in their given field.

The pilot program will be two years long after rules are promulgated, and the job Creation Committee has to provide a status update to the legislature after that time. At the conclusion of the pilot program, the Legislature can determine whether to make any changes to the registry including, but not limited to, expansion or elimination of the registry.

### **Break for Lunch**

The committee took a break for lunch at 11:30 PM and reconvened at 12:30 PM.

### **Presentation from the Indiana Plumbing Commission**

Rae Harman, Assistant Director for the Indiana Plumbing Commission, presented to the Committee. She explained the types of licenses, including Plumbing Apprentices, Journeyman Plumber, Plumbing Contractor, Temporary Contractor, and Corporate Plumbing Contractor.

Col. Wilson asked for clarification of the definition of an approved apprentice program. Ms. Harman responded that most approved programs are plumbing schools or businesses. She also explained board establishment, member composition, and the role of the commission in the licensure of the profession.

Ms. Harman explained the Plumbers Recovery Fund, administered by Indiana Plumbing Commission, has a current balance of \$504,885.84. The last payment out of fund was made in August 2012.

### **Presentation from the Indiana Attorney General's Office, re: Plumbers**

Derek Peterson, Deputy AG, presented to the Committee. He presented a report which shows the number of complaints, investigations completed, and litigation completed in this industry since 2008. There are roughly 66 consumer complaints filed per year. Most investigations conducted have been against unlicensed practices and unprofessional conduct. Most prevalent litigation completed was cease & desist, no violations, and warning letters. Mr. Rhoad asked for him to clarify what he meant by "unlicensed practice" in this industry. Mr. Peterson explained

that it's any practice that does not meet the requirements for the licensing of the work that they are conducting.

Col. Wilson mentioned that the number of consumer complaints are consistent except for 2008, why? Mr. Tolliver mentioned that there was a large-sized firm (Mr. Plumber) that was discovered to be practicing without a license and generated more complaints than usual.

### **Report from the Indiana Plumbing Heating Cooling Contractors Association**

Brenda Dant, Executive Director, presented to the Committee. Additionally, State Representative Steve Stemler (D-Jeffersonville), State Representative Dave Niezgodski (D-South Bend) and State Senator Mark Messmer (R-Jasper) were all present as they have a background/work in this industry and wanted to offer their support for continued licensure of this industry as a public health & safety issue, and they are very pleased with IPLA's currently handling of the profession.

Ms. Dant explained that the IPHCC is the oldest trade organization in the nation. Indiana currently has 250 company members and 1,109 individual licensees as members. IPHCC represents both union and non-union workers. IPHCC supports state licensure because an untrained plumber can cause havoc. Licensing is not a barrier for entry into this field, and the IPHCC believes it is positive for the industry. The IPHCC is losing the number of workers entering into the trade, mostly because it is not a popular field right now with young people. She explained that their apprenticeship is a really great "earn while you learn" program, so it's not cheap/unfair labor, plus it is a federally-approved program. The committee asked for Ms. Dant to explain the difference between a journeyman and a plumbing contractor. Ms. Dant explained that a journeyman is usually a worker in a plumbing company, whereas a plumbing contractor position is more in depth and includes more business aspects on the licensing exam.

Ms. Dant explained why the IPHCC believes that state-regulated licensure is important to protect the public. The IPHCC would also like to see swifter action from the state in suspending licenses due to unlicensed or incompetent practitioners. They believe that the current Commission is efficient, adequate, and represents the industry well. IPHCC also believes that the fees are fair.

Mr. Rhoad wants to know more about the vocational education components and the education costs for the students in these apprenticeship programs. Ms. Dant explained that most of the time when a contracting company employs a student; they will pay for their schooling. Otherwise, it's only \$750 per semester to go to school. Most students work for a contractor first, and once they prove themselves, their boss sends them to school. Contractors see it as an investment for their company. Ms. Dant explained that some plumbing schools have collaboration with universities where if the apprentice goes to school for an extra year, you can exit the program as a licensed plumber and with an associate's degree. Mr. Rhoad asked about the reciprocity of the license in other states. Ms. Dant explained that there is no reciprocity with other states since Indiana's codes are very different than other states. However, if someone is already licensed in another state, they can sit for the other state's licensing exam without going through additional schooling.

Ms. Quandt asked if all states license plumbers in the industry. Ms. Dant explained that 19 states have programs identical to Indiana's regulatory standards. The other states have various certification programs with strict regulation. Ms. Quandt asked how many licensed businesses or individuals in Indiana are members of IPHCC. Ms. Dant responded 250 companies and around 1100 individuals are members. She elaborated that the average annual dues are \$500-

\$550, because you become members of the state organization, federal organization, and local chapters which all have individual dues.

Col. Wilson asked about the cost of the programs where an apprenticeship plumber can earn an associate's degree and if that places additional costs onto the apprentices. Ms. Dant responded that she does not have that data, since those programs are not managed through IPHCC.

Col. Wilson asked if her agency could, if given the resources & authority, regulate this profession on behalf of the state. Ms. Dant responded that she still thinks that the state is still the best entity, but IPHCC would be willing to help with certain aspects. She believes that the apprentice license could change, since an apprentice license is tied to an employer. So whenever an apprentice changes jobs or schools, a new license required. She proposed that the plumbing schools might be able to regulate apprentice certifications on the school-level to avoid this problem. Col. Wilson asked that while these apprentices are in these programs, could the schools just certify the apprentices themselves. Ms. Dant explained that, in some cases, apprentices don't want to go the extra year in the program to get their associate's degree. She mentioned that there is a lot of pride during the graduation ceremonies for these apprentices.

Ms. Quandt asked about how the IPHCC is reaching out to young people to promote this profession. Ms. Dant responded that IPHCC is currently working on a workforce development program at the moment to attract young people to the profession. Ms. Quandt posed a question to the audience and those in the industry if they are having difficulty finding new apprentices. An audience member who is a plumber explained that his company is starting to see more retirees than new apprentices. Mr. Miller remarked that it sounds like there is a low number of plumbers in relation to the population of Indiana. He asked if anything could be done on an economic side or workforce development level that the State could handle.

Col. Wilson asked about the necessity of an apprenticeship license, especially if the apprentice is already being monitored or supervised by both the school and the contracting business that is training them. IPHCC thinks that the apprentice license is more of a pride thing that gives the student "proof" of their status. Ms. Dant remarked that she has not heard any complaints about the cost of the apprentice license.

Mr. Rhoad mentioned that with these industries needing help recruiting new students, should there be any tax breaks for companies to recruit? Col. Wilson remarked that from an economic aspect, it seems to him that anytime the state can encourage young people entering into the building trade as a way to boost employment and encourage solid career paths, it is a good thing. Ms. Dant responded that the industry is having trouble recruiting some demographics of young people due to the industry-required drug tests, and the IPHCC is not sure how to remedy that.

Mr. Miller asked if the state currently has a system set up that has low barriers to entry. Is it easy for potential plumbing apprentices to find schools, get set up with an employer to sponsor them, etc.? Ms. Dant responded that it is usually the mothers of young people calling the school or association asking for information. Since these trades aren't taught in public schools anymore, some young people have no idea what a plumber actually does. Schools and contractors need to assess if the potential student has mechanical skills and the potential for hard work. Ms. Dant will sometimes find a willing member of IPHCC who will talk to a potential student first to give them more details about the industry. She also explained that most people get into the trade because either of family ties or they have close friends in the industry.



Col. Wilson asked if there are currently any specific outreach efforts for low-income or minority populations. Ms. Dant said that some contractors are reaching out into those communities. An Indiana Pipe Trade spokesperson in the audience spoke up and remarked that they are required to reach out to minority populations, so they advertise in areas where those target demographics work.

Col. Wilson asked Ms. Dant to clarify the association's recommendation for an enforcer/inspector position or to give more authority to the board to enforce violations faster. Ms. Dant explained that some towns only have one building inspector who only conducts inspections after a license has been revoked. Inspectors aren't as willing to work with IPHCC because they operate on a different level that doesn't regulate state/individual licenses. However, IPHCC is becoming more receptive to checking individual licenses if a violation is found or suspect on a job site.

### **Concluding Discussion by the Committee**

Col. Wilson wanted clarification that Mr. Goodwin will provide a written draft of a compilation of information provided to the committee in order for the Committee to make recommendations regarding the reviewed professions. Mr. Goodwin agreed, saying that the compilation will be ready for the June 2 meeting. There was no further discussion requested from any other committee members.

### **Adjournment**

Seeing no further discussion, Mr. Rhoad asked the committee for a motion to adjourn. Col. Wilson motioned to adjourn, and Mr. Reed seconded. With no objections, the committee adjourned at 2:21 PM.

### **NEXT SCHEDULED MEETING FOR THE JOB CREATION COMMITTEE MEETING**

Thursday, June 2, 2015, 9:00 AM  
Indiana Government Center – South  
402 West Washington Street, Room Wo64  
Indianapolis, IN 46204